

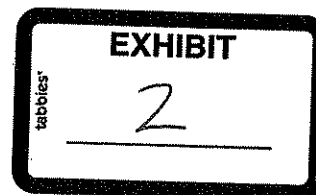
UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI

Carolyn Betton, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	No. 4:05CV1455 (JCH)
	)	
St. Louis County, Missouri,	)	
	)	
Defendant.	)	

**Declaration of Ferne P. Wolf**

Ferne P. Wolf states as follows:

1. I am a partner in the law firm of Sowers & Wolf, LLC and counsel of record in the above-captioned action. I make this Declaration of my own personal knowledge.
2. I have been practicing in the area of employment and civil rights law since 1978: first in private practice as an associate working for St. Louis attorney Louis Gilden; then for the United States Equal Employment Opportunity Commission both in its headquarters office in Washington, D.C. and the St. Louis District Office; then in East St. Louis, Illinois, at the firm then known as Carr, Korein, Tillery, Kunin, Montroy & Glass, where I practiced employment law, civil rights law, and commercial litigation; and, since 1999, as a partner in Sowers & Wolf, LLC. My practice includes work in Missouri and, specifically, within the area covered by the U.S. District Court for the Eastern District of Missouri.
3. I am a 1978 graduate of George Washington University Law School and I have been a licensed attorney since 1978. I am licensed to practice law in Missouri, Illinois, and Texas and admitted to practice in the U.S. District Courts for the Eastern and Western Districts of Missouri and the Southern and Central Districts of Illinois; the U. S. Courts of Appeals for the Seventh and



Eighth Circuits; and, the U.S. Supreme Court.

4. I am a member of the Missouri Bar's Labor and Employment Law Committee and I have been appointed to related subcommittees including: the subcommittee which prepared a model settlement agreement for employment cases, the subcommittee which reviewed the Missouri Bar CLE Deskbooks on Employment Discrimination and on Employer-Employee Law and coordinated revisions, and the Legislative Review Subcommittee. I authored the Missouri Bar CLE Deskbook chapter on the federal Uniform Employment and Reemployment Rights Act ("USERRA"). I am the vice chair of the Illinois State Bar Association's Section Council on Labor and Employment Law; I am past chair of the ISBA's Committee on Sexual Orientation and Gender Identity. I am the vice-president of the St. Louis Chapter of the National Employment Lawyers Association and a member of the Chicago Chapter. I served on the editorial board for the American Bar Association Litigation Section's Employment and Labor Relations Committee's newsletter.
5. My current hourly rate for representing plaintiffs in connection with employment litigation is \$400.00 per hour.
6. Explanation of scope of work up to time of taking depositions
  - a. In March 2009, I was approached by attorney Rufus Tate concerning representation of the five plaintiffs in this action. It was my understanding that the plaintiffs had been represented by attorney Eric Tolen and that because of Mr. Tolen's incarceration, which had nothing to do with his representation of the plaintiffs, the women were left without representation when their case was remanded to the district court for trial. Because the case had been remanded after summary judgment, my initial thought was that the case was ready for trial and the scope of our work would be trial preparation and trial.

- b. After meeting with the plaintiffs and reviewing the materials available to the plaintiffs and the documents on PACER, I realized the file was most likely incomplete and we were facing a difficult situation in attempting to piece the file back together. I also realized Mr. Tolen had taken no depositions and, based on the interrogatory answers which St. Louis County had served while Mr. Tolen was still representing the plaintiffs, St. Louis County was denying that a particular meeting (the meeting which the plaintiffs claimed led to their transfers) ever took place.
- c. Since Mr. Tolen was not available for the transition of counsel, which would have included locating documents and explaining what was available, plaintiffs were left in the position of reconstructing the file. It soon became apparent that St. Louis County never served a written response to the Request for Production of Documents which Mr. Tolen served in 2006. Apparently, St. Louis County provided documents but with no response to the Request identifying which, if any, documents were being provided in response to which request, it was impossible to know what the plaintiffs had and it would have been impossible to authenticate any of the documents for use at trial. While St. Louis County eventually agreed to produce its file, when it produced the several boxes, none of the documents was numbered and there was still no indication what documents were being produced in response to which Request for Production, precluding authentication for trial purposes.
- d. Upon receipt of the materials from St. Louis County, I worked with a law student to develop a system to account for and authenticate each piece of paper. The law student copied each piece of paper, identifying each piece with the "Box Number" and a separate identifying number. The student then scanned each piece of paper to a disk which I sent to St. Louis County as part of a Request for Admissions so plaintiffs could establish the universe of documents which were part of the case at that point in time. The fees being submitted in this

case do not include the time spent by the law student in completing this time-consuming but important task or in segregating and arranging for the return of what appeared to be the inadvertent production of attorney notes. Virtually all of the exhibits used in the case were marked with the Box Number and page numbers resulting from the project. (Subsequently, St. Louis County produced numerous additional documents - none of which was numbered when produced.)

e. By August 2009, after much effort to resolve the matters amicably, plaintiffs filed a Motion to Compel (Docket Entry 61) recapitulating the outstanding discovery issues, including St. Louis County's failure to timely respond to discovery requests sent after the remand from the Eighth Circuit. At that point, the parties were able to work out the discovery issues and plaintiffs took depositions and generally prepared for trial.

7. I have attached a spreadsheet listing the date, amount of time, and a description of the work I performed in connection with this case and I used the calculator associated with the Excel program ("Σ") to calculate the total number of hours which, by the calculation, equals 212.2. Eric Sowers, Beth Fetterman, and I attempted to avoid unnecessary billing by omitting multiple references to time we met together unless such meetings were for the purpose of discussing strategy so the subsequent work would be organized and simplified. I also omitted time devoted exclusively to the representation of plaintiff Cytoys Durham.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 25, 2010.

  
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Ferne P. Wolf

Ferne P. Wolf Timesheet, Betton, et al v. St. Louis County

3/17/2009	0.40	t/C. Betton re: representation and underlying facts and status of case
3/17/2009	0.10	t/R. Tate re: representation of plaintiffs
3/17/2009	0.20	preliminary review of 8th Circuit decision in Betton v. St. Louis County
3/18/2009	0.20	email/R. Tate re: meeting with plaintiffs
3/18/2009	0.50	research and review documents on Betton case (pacer)
3/18/2009	0.60	prepare documents for meeting with plaintiffs
3/19/2009	0.40	continuation of preparation of documents for meeting with Betton, Durham, Howard, and King
3/19/2009	1.80	meeting with R. Tate and then meeting with R. Tate and Betton, Durham, Howard, and King
3/19/2009	0.10	email/R. Tate re: J. Johnson and procedures at district court
3/20/2009	0.20	t/J. Johnson re: representation
3/20/2009	0.20	prepare and file entry of appearance
3/20/2009	0.20	corr/R. Tate re: appearance
3/21/2009	0.80	conf/J. Johnson
3/23/2009	1.50	Appearance in court re: status and conf/opp counsel and R. Tate re: case status
3/23/2009	0.10	t/J. Johnson re: hearing
3/23/2009	0.10	t/C. King re: hearing
3/23/2009	0.20	t/C. Betton re: hearing
3/27/2009	1.00	Review documents in file to determine what is missing
3/27/2009	0.20	email/R. Tate re: docu's in file and entering appearance
3/27/2009	0.20	review exhibits to sj response - email/R. Tate re: same
3/27/2009	0.30	t/J. Johnson re: underlying facts of case
3/31/2009	0.20	t/M. Shuman re: documents/file audits
3/31/2009	0.20	email/R. Tate re: status including conference with Shuman
4/3/2009	0.40	conf/E. Sowers re: review of documents and strategy
4/3/2009	0.20	t/R. Tate re: review of documents
4/7/2009	0.10	t/J. Johnson re: status
4/28/2009	0.20	conf/E. Sowers re: strategy for discovery
5/1/2009	0.20	review Case Management Order: email/counsel re: same
5/1/2009	0.30	review M. Shuman email; call court (Bev) re: amended case management order; email M. Shuman and other counsel re: conversation with Bev
5/13/2009	3.00	conf/E. Sowers, B. Fetterman, R. Tate re: review of files and strategy planning for remaining discovery period (some participants present for portions of meeting)
5/14/2009	0.10	email/R. Tate re: clients
5/14/2009	0.20	t/C. Betton re: underlying facts
5/14/2009	0.30	t/clients re: grievance
5/14/2009	0.30	review discovery responses and send email re: same to M. Shuman
5/14/2009	0.30	review M. Shuman response to email re: discovery and prepare and send response

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5/14/2009	0.10	review email from M. Shuman
5/19/2009	0.30	email corr/M. Shuman (sent and received) re: defendant's discovery responses; forward same to cocounsel
5/19/2009	0.40	conf/H. Collins re: review of documents
5/19/2009	0.20	email/M. Shuman re: Exhibit A and Exhibit 2 found in group of documents M. Shuman left at office for review
5/19/2009	0.10	review and respond to email from M. Shuman re: notes
5/20/2009	0.50	conf/M. Shuman re: documents in box he left at SW -- return of documents he decided to take (notes)
5/28/2009	0.10	email/M. Shuman re: def discovery responses
6/1/2009	0.40	review email from M. Shuman re: discovery; review emails for previous email sending discovery requests; email M. Shuman re: same
6/2/2009	0.30	finalize Plaintiffs' First Request for Admissions
6/2/2009	0.10	email/M. Shuman re: return of box of documents
6/2/2009	0.30	conf/ES and BF re: handling additional discovery
6/3/2009	0.20	email M. Shuman re: discovery responses and review his response
6/3/2009	0.10	email/R. Tate re: settlement
6/5/2009	0.30	t/M. Shuman re: def discovery responses and email to M. Shuman re: same
6/5/2009	0.50	t/R. Tate re: strategy, damages, mediation
8/31/2009	0.20	review order and calendar - phone conference with judge
9/16/2009	2.00	conf/clients re: underlying facts and settlement (present for portion of meeting)
9/16/2009	0.20	t/R. Tate re: meeting with clients
10/8/2009	0.50	conf/E. Sowers re: depositions
10/9/2009	0.60	conf/E. Sowers and B. Fetterman re: def discovery responses and depositions
11/6/2009	0.30	conf/ES and BF re: case strategy; mediation; follow-up depositions
11/11/2009	0.80	conf/E. Sowers re: mediation and underlying facts
11/12/2009	0.40	t/C. Betton (2 calls) re: mediation; t/E. Sowers re: same
11/12/2009	0.40	t/E. Sowers re: mediation and legal research re: same
12/10/2009	0.30	review file re: names of deponents and email/M. Shuman re: taking depositions of Peterson and Grimm
12/10/2009	0.10	conf/E. Sowers re: depositions
1/11/2010	0.10	t/M. Shuman re: boxes of documents
1/13/2010	0.80	review documents to comply with defense counsel's request for return of materials
1/13/2010	0.50	conf/M. Shuman re: documents
1/20/2010	0.10	t/Bev from Judge Hamilton's chambers re: length of trial; email to E. Sowers re: same
1/21/2010	0.50	conf/E. Sowers and B. Fetterman re: instructions and research re: same
1/25/2010	0.50	conf/E. Sowers re: final pretrial; email R. Tate re: same



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1/27/2010	0.40	conf/E. Sowers re: depositions and continuance
1/27/2010	0.10	review defendant's motion for continuance
1/27/2010	0.30	conf/E. Sowers re: court's ruling on def motion and trial date; email/R. Tate re: same and trial preparation
1/28/2010	0.10	review court order re: continuance
1/29/2010	0.20	instructions to L. Lugo re: client contact in prep for trial
2/4/2010	1.50	pretrial preparation - review of order, pleadings, documents
2/4/2010	5.50	continuation of trial preparation and preparation of pretrial materials
2/5/2010	9.50	trial preparation - instructions, stipulations, review of documents and testimony
2/6/2010	7.50	trial preparation, work on pretrial compliance including exhibit list; email/defense counsel re: documents
2/7/2010	4.20	trial preparation - compliance with pretrial order
2/7/2010	0.10	email opp counsel re: stipulation
2/8/2010	0.50	conf/E. Sowers and B. Fetterman re: pretrial compliance - stipulations, exhibits, filing and serving materials
2/8/2010	0.30	modify stipulations, research re: filing and prepare to file
2/8/2010	0.90	conf/E. Sowers re: additional deposition lines to use
2/8/2010	0.60	conf/B. Fetterman re: marking and producing exhibits
2/8/2010	0.50	work with E. Sowers on depo lines
2/9/2010	1.50	review of documents supplied by defendant on 2/8
2/9/2010	0.50	preliminary review of defendant's pretrial compliance; conf/E. Sowers re: same
2/9/2010	1.00	final revisions to pretrial compliance and file same with court
2/9/2010	2.00	review law re: use of deposition (Muehlheausler issue); review of defendant's deposition designations and prepare objections; conf/E. Sowers re: strategy re: Muehlheausler deposition/appearance
2/9/2010	0.80	conf/E. Sowers re: exhibits
2/10/2010	0.60	conf/E. Sowers re: defendant's exhibits
2/10/2010	0.40	conf/E. Sowers re: defendant's instructions
2/11/2010	6.50	review of defendant's exhibits (review for objections and indexing); email opp counsel re: blank pages in some exhibits
2/12/2010	0.10	review M. Shuman email re: exhibits with blank pages
2/12/2010	4.50	pretrial preparation, including review of exhibits and defendant's deposition lines, as well as underlying facts
2/13/2010	2.00	work on responding to defendant's pretrial submissions
2/16/2010	0.10	review M. Shuman emails re: blank pages in group exhibits and def producing witnesses without subpoenas

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2/17/2010	2.50	pretrial preparation including motions in limine and review of def proposed evidence and instructions
2/18/2010	1.30	modify and finalize motions in limine
2/19/2010	0.10	review order re: pretrial conference
2/19/2010	1.00	conf/E. Sowers re: trial preparation and strategy
2/19/2010	0.40	finalize and file pretrial materials - objections to depo lines, objections to exhibits, and motions in limine
2/19/2010	0.10	preliminary review of Defendant's Supplemental Pretrial Report
2/19/2010	0.20	review corr from R. Tate re: pretrial
2/19/2010	0.20	revise opp to depo lines and file
2/22/2010	0.80	conf/E. Sowers re: trial preparation
2/22/2010	0.30	review message from T. Christopher (chambers) re: jury instructions; review filings for instructions; t/T. Christopher re: same
2/22/2010	0.40	conf/E. Sowers re: subpoenas and prepare subpoenas
2/22/2010	0.10	t/B. Goff re: instructions
2/22/2010	0.20	forward instructions in wordperfect to B. Goff
2/22/2010	0.50	review emails from M. Shuman with photographs (proposed new exhibits); review order regarding pretrial to determine position re: same
2/23/2010	4.50	conf/E. Sowers and R. Tate re: trial preparation
2/26/2010	8.50	meeting with clients to prepare for trial; prepare for final pretrial conference; final pretrial conference; meeting with E. Sowers re: revising presentation of evidence in light of court's rulings
2/27/2010	9.00	preparation for trial, including preparation of witnesses and organization of materials for orderly presentation at trial in light of court's rulings and defendant's disclosure that PM was going to be present at trial
2/28/2010	5.00	work with clients to prepare for trial
2/28/2010	4.00	trial preparation
3/1/2010	12.00	trial and preparation for second day of trial
3/2/2010	11.00	trial and preparation for third day of trial
3/3/2010	9.00	trial and preparation for fourth day of trial
3/4/2010	9.00	trial and preparation for fifth day of trial
3/5/2010	8.00	trial and instruction conference
3/5/2010	0.50	t/E. Sowers re: instruction conference
3/6/2010	3.00	trial preparation
3/7/2010	4.00	trial preparation (a.m. portion, will be additional in afternoon)
3/7/2010	3.50	trial preparation, additional work on defense witnesses and closing argument
3/8/2010	14.50	trial and preparation for closing



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3/9/2010	8.20	trial, waiting for verdict, conf/clients re: verdict
3/10/2010	0.40	conf/E. Sowers re: verdict and post-trial issues
3/10/2010	0.20	preliminary review of filings by court
3/10/2010	0.30	t/R. Tate re: posttrial submissions
3/10/2010	0.40	conf/E. Sowers re: posttrial submissions
3/11/2010	0.40	t/C. King re: verdict and post-trial procedures
3/11/2010	0.20	t/C. Howard re: post-trial procedures
3/12/2010	0.30	t/C. Betton re: post-trial procedures
3/15/2010	0.50	research re: fee award procedure and commence preparation of affidavit
3/15/2010	0.30	conf/E. Sowers re: request for injunctive relief; review original complaint re: same
3/15/2010	0.20	review Declaration of M. Beth Fetterman and instructions to MBF re: same
3/15/2010	0.30	instructions to L. Lugo re: costs and review of draft list of costs and expenses
		commence preparation of memorandum in support of motion for fees, including legal research on standard to apply
3/23/2010	1.40	
3/24/2010	0.10	review Tolen Affidavit for attorneys fees and expenses
3/24/2010	3.20	work on memorandum in support of motion for fees, analysis of factors
3/25/2010	2.50	additional work on attorneys' fees motion, memorandum including legal research re: same and organizing memorandum into topics addressing factors
	212.20	